

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5922 OF 2005

Avinash Choudhari ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri. K. S. Patil for the Applicant.
Ms M. M. Deshmukh, A.P.P. for the Respondent.

CORAM : A.S.OKA, J.

DATED : SEPTEMBER 19, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicants and the co-accused is under section 302 read with section 34 of the Indian Penal Code. The Advocate for the Applicant submitted that considering the allegation made by the prosecution itself, there was no intention on the part of the Applicants to kill the deceased and at highest, the second part of the section 304 of the Indian Penal Code will apply. He submitted that the injuries to the deceased are not on the vital part and therefore, the Applicant is entitled to be enlarged on bail after completion of investigation.

2. The incident has taken place in front of a police chowki. The Applicant has been caught on the spot with the weapon. The weapon is blood stained and there is recovery of blood stained clothes at the instance of the Applicant. There is enough material on record to show the complicity of the Applicant.

The Post Mortem Notes disclose the large perforating stab injury on lateral side on the left thigh and a big stab injury above and posterior area. The injuries are consistent with the version of the prosecution witnesses.

3. Considering the material on record, no case is made out for enlarging the Applicant on bail. Application is rejected. The trial is expediated.

JUDGE